

SPECIAL NOTICE

July 1, 2001

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Tax Changes Relating to Vehicle Dealers

Substitute House Bill 1119, Chapter 258, Laws of 2001 changes the manner in which certain sales are reported by businesses selling motor vehicles. The bill provides two Business and Occupation (B&O) tax exemptions; one for wholesale sales of used motor vehicles sold at auction and another for wholesale sales of new motor vehicles between dealers. In addition, there are new reporting requirements for "courtesy dealers." These changes are explained below and become effective July 1, 2001.

Exemption for Wholesale Sales of Used Motor Vehicles

Wholesale sales of used motor vehicles are exempt from B&O tax when sold at auction by licensed vehicle dealers to other licensed dealers. The dealers must be licensed under chapter 46.70 RCW or licensed by another state. When completing the Combined Excise Tax Return, dealers should report the gross amount from these sales under the wholesaling classification of the B&O tax and take a deduction under the "other" category.

Dealers are required to maintain sufficient documentation to substantiate that:

- The vehicle was sold at auction;
- The vehicle was sold to a licensed dealer;
- The vehicle was sold at wholesale; and
- The vehicle was a used motor vehicle.

Exemption for Wholesale Sales of New Motor Vehicles

Wholesale sales of new motor vehicles that enable dealers to adjust inventory levels are exempt from the B&O tax. To qualify for the exemption, the sales must be of new motor vehicles and must occur between new car dealers selling the same make of vehicle. In addition, the amount paid by the purchasing dealer cannot exceed the amount paid by the selling dealer in the acquisition of the vehicle, except for reasonable preparation charges.

When completing the Combined Excise Tax Return, dealers should report the gross amount from these sales under the wholesaling classification of the B&O tax and take a deduction under the "other" category.

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A new car dealer making a sale to adjust inventory levels must maintain documentation to verify:

- The vehicle sold was a new motor vehicle;
- The sale was made to another new car dealer making sales of vehicles of the same make; and
- The selling price did not exceed the amount paid by the selling dealer in acquiring the vehicle plus reasonable expenses to prepare the vehicle for sale.

Reporting Requirements of Courtesy Dealers

Motor vehicle dealers located outside Washington often sell new motor vehicles to Washington customers and use in-state dealers to facilitate the sales. The in-state dealers prepare the vehicles for delivery and deliver them to the buyers in this state as a courtesy to the out-of-state sellers.

A “courtesy dealer” is any licensed new motor vehicle dealer authorized to prepare or deliver a new motor vehicle to a customer in this state. For excise tax purposes, the in-state courtesy dealer is deemed to be the agent for the “selling dealer.” A “selling dealer” is defined as a motor vehicle dealer not licensed to prepare or deliver a new motor vehicle to a customer in this state, such as an out-of-state car dealer.

Unless the selling dealer is registered, reporting, and remitting taxes to the Department of Revenue, the courtesy dealer must report and pay the taxes on the transaction, in addition to its own taxes. When completing the Combined Excise Tax Return, the courtesy dealer must:

- Report the sales transaction under the retailing classification of the B&O tax;
- Collect, report, and remit the retail sales tax; and
- Report commissions it received, for facilitating the sale, under the service and other activities classification of the B&O tax.

The retailing B&O tax paid on behalf of the selling dealer constitutes a debt from the selling dealer to the courtesy dealer. The courtesy dealer is authorized to withhold an amount equal to the amount of the tax from the proceeds of the sale. Such amounts withheld are deemed to be held in trust by the courtesy dealer until paid to the Department.

When the selling dealer claims to be registered with the Department of Revenue, the courtesy dealer must document this fact. The courtesy dealer should obtain an affidavit from the selling dealer that provides the name and signature of the selling dealer and the selling dealer’s UBI/tax registration number. The affidavit must also contain a statement that the selling dealer will report and remit the retailing B&O tax and the sales tax associated with the courtesy transaction.

A courtesy dealer must also obtain appropriate documentation when a sale of a vehicle is exempt from retail sales tax. For example, when a courtesy transaction involves the sale to a member of the military, the courtesy dealer must obtain affidavits and military orders as if the sale were made in the courtesy dealer’s own name.

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